

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 300, As Amended

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO THE ACCESS TO JUSTICE FUND; AMENDING CHAPTER 16, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-1626, IDAHO CODE, TO CREATE THE ACCESS TO JUSTICE FUND IN THE STATE TREASURY AND TO PROVIDE FOR WHAT MON- EYS IN THE FUND MAY BE USED; AND AMENDING SECTION 31-3201A, IDAHO CODE, TO INCREASE CERTAIN FILING FEES AND TO PROVIDE FOR REMITTANCE OF THE FEE INCREASE IN THE ACCESS TO JUSTICE FUND.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 16, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-1626, Idaho Code, and to read as follows:

1-1626. ACCESS TO JUSTICE FUND. (1) There is hereby created in the state treasury the access to justice fund. Moneys deposited into the fund pursuant to section 31-3201A, Idaho Code, shall be perpetually appropriated to Idaho legal aid services, inc., to provide legal representation for indigent persons in civil matters and to meet the costs of maintaining the operation of Idaho legal aid services, inc. Moneys in the fund may not be expended for class action lawsuits, criminal cases or lawsuits against the state of Idaho.

(2) The Idaho state controller shall distribute moneys in the fund to Idaho legal aid services.

(3) Funds shall only be used by Idaho legal aid services to provide legal representation and advocacy to low-income Idahoans in civil matters concerning domestic violence, abused and neglected children, elder care and exploitation, foreclosures and veterans' issues.

(4) Moneys expended pursuant to subsection (3) of this section may not be used for class action lawsuits, criminal cases, representation of persons who are incarcerated, cases concerning abortion or reproductive issues, representation of undocumented persons or lawsuits against the state of Idaho, its employees in their employment capacity, political subdivisions of the state or those political subdivisions' employees in their employment capacity.

(5) Idaho legal aid services is directed to provide annually a report to the legislature reflecting an accounting of expenditures from the access to justice fund.

SECTION 2. That Section 31-3201A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201A. COURT FEES. The clerk of the district court in addition to the fees and charges imposed by chapter 20, title 1, Idaho Code, and in addition to the fee levied by chapter 2, title 73, Idaho Code, shall charge, de-

mand and receive the following fees for services rendered by him in discharging the duties imposed upon him by law:

(1) Civil cases. A fee of ~~fifty~~ sixty dollars (\$~~50~~60.00) for filing a civil case of any type in the district court or in the magistrate's division of the district court with the following exceptions:

(a) The fee for small claims shall be as provided in section 1-2303, Idaho Code;

(b) No filing fee shall be charged in the following types of cases:

(i) Cases brought under chapter 3, title 66, Idaho Code, for commitment of mentally ill persons;

(ii) Cases brought under the juvenile corrections act;

(iii) Cases brought under the child protective act;

(iv) Demands for bond before a personal representative is appointed in probate;

(v) Petitions for sterilization;

(vi) Petitions for judicial consent to abortion;

(vii) Registration of trusts and renunciations;

(viii) Petitions for leave to compromise the disputed claim of a minor;

(ix) Petitions for a civil protection order or to enforce a foreign civil protection order pursuant to chapter 63, title 39, Idaho Code;

(x) Objections to the appointment of a guardian filed by a minor or an incapacitated person;

(xi) Proceedings to suspend a license for nonpayment of child support pursuant to section 7-1405, Idaho Code;

(xii) Proceedings under the uniform post-conviction procedure act as provided in chapter 49, title 19, Idaho Code;

(xiii) Filings of a custody decree from another state;

(xiv) Filings of any answer after an initial appearance fee has been paid.

The filing fee of ~~fifty~~ sixty dollars (\$~~50~~60.00) shall be distributed as follows: seventeen dollars (\$17.00) of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; ten dollars (\$10.00) of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARs technology fund; seventeen dollars (\$17.00) of such filing fee shall be paid to the county treasurer who shall pay such fees to the state treasurer for deposit in accordance with subsection (15) of this section; ~~and~~ six dollars (\$6.00) of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund; and ten dollars (\$10.00) of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the access to justice fund.

(2) Felonies and misdemeanors. A fee of seventeen dollars and fifty cents (\$17.50) shall be paid, but not in advance, by each person found guilty of any felony or misdemeanor, except when the court orders such fee waived because the person is indigent and unable to pay such fee. If the magistrate

1 court facilities are provided by the county, five dollars (\$5.00) of such fee
 2 shall be paid to the county treasurer for deposit in the district court fund
 3 of the county; and twelve dollars and fifty cents (\$12.50) of such fee shall
 4 be paid to the county treasurer who shall pay such fees to the state treasurer
 5 for deposit in accordance with subsection (15) of this section. If the mag-
 6 istrate court facilities are provided by a city, five dollars (\$5.00) of such
 7 fee shall be paid to the city treasurer for deposit in the city general fund,
 8 two dollars and fifty cents (\$2.50) of such fee shall be paid to the city
 9 treasurer for deposit in the city capital facilities fund for the construc-
 10 tion, remodeling and support of magistrate court facilities, and ten dollars
 11 (\$10.00) of such fee shall be paid to the county treasurer who shall pay such
 12 fees to the state treasurer for deposit in accordance with subsection (15) of
 13 this section.

14 (3) Infractions. A fee of sixteen dollars and fifty cents (\$16.50)
 15 shall be paid, but not in advance, by each person found to have committed
 16 an infraction or any minor traffic, conservation or ordinance violation;
 17 provided that the judge or magistrate may in his or her discretion consoli-
 18 date separate nonmoving traffic offenses into one (1) offense for purposes
 19 of assessing such fee. If the magistrate court facilities are provided by
 20 the county, five dollars (\$5.00) of such fee shall be paid to the county
 21 treasurer for deposit in the district court fund of the county; and eleven
 22 dollars and fifty cents (\$11.50) of such fee shall be paid to the county
 23 treasurer, who shall pay such fees to the state treasurer for deposit in
 24 accordance with subsection (15) of this section. If the magistrate court
 25 facilities are provided by a city, five dollars (\$5.00) of such fee shall be
 26 paid to the city treasurer for deposit in the city general fund, two dollars
 27 and fifty cents (\$2.50) of such fee shall be paid to the city treasurer for
 28 deposit in the city capital facilities fund for the construction, remodeling
 29 and support of magistrate court facilities, and nine dollars (\$9.00) of such
 30 fee shall be paid to the county treasurer who shall pay such fees to the state
 31 treasurer for deposit in accordance with subsection (15) of this section.

32 (4) Initial appearance other than plaintiff. A fee of ~~thirty~~ forty dol-
 33 lars (~~\$34~~40.00) shall be paid for any filing constituting the initial appear-
 34 ance by a party, except the plaintiff, in any civil action in the district
 35 court or in the magistrate's division of the district court, except small
 36 claims. If two (2) or more parties are making their initial appearance in the
 37 same filing, then only one (1) filing fee shall be collected. Of such fee,
 38 four dollars (\$4.00) shall be paid to the county treasurer for deposit in the
 39 district court fund of the county; ten dollars (\$10.00) of such fee shall be
 40 paid to the county treasurer who shall, within five (5) days after the end
 41 of the month, pay such fees to the state treasurer for deposit into the IS-
 42 TARS technology fund; ten dollars (\$10.00) of such fee shall be paid to the
 43 county treasurer who shall pay such fees to the state treasurer for deposit
 44 in accordance with subsection (15) of this section; ~~and~~ six dollars (\$6.00)
 45 of such fee shall be paid to the county treasurer who shall, within five (5)
 46 days after the end of the month, pay such fees to the state treasurer for de-
 47 posit in the senior magistrate judges fund; and ten dollars (\$10.00) of such
 48 fee shall be paid to the county treasurer who shall, within five (5) days af-
 49 ter the end of the month, pay such fees to the state treasurer for deposit in
 50 the access to justice fund.

1 (5) Accountings. A fee of nine dollars (\$9.00) shall be paid by the per-
 2 son or persons required to make an account pursuant to either chapter 11 or
 3 chapter 18, title 15, Idaho Code, at the time such account is filed. All of
 4 such fee shall be paid to the county treasurer for deposit in the district
 5 court fund of the county.

6 (6) Distribution of estate. A fee of ~~twenty~~thirty-five dollars
 7 (\$~~235~~35.00) shall be paid upon the filing of a petition of the executor or ad-
 8 ministrator or of any person interested in an estate for the distribution of
 9 such estate, six dollars (\$6.00) of such fee shall be paid to the county trea-
 10 surer for deposit in the district court fund of the county; thirteen dollars
 11 (\$13.00) of such fee shall be paid to the county treasurer who shall pay such
 12 fees to the state treasurer for deposit in accordance with subsection (15) of
 13 this section; and six dollars (\$6.00) of such fee shall be paid to the county
 14 treasurer who shall, within five (5) days after the end of the month, pay such
 15 fees to the state treasurer for deposit in the senior magistrate judges fund;
 16 and ten dollars (\$10.00) of such fee shall be paid to the county treasurer who
 17 shall, within five (5) days after the end of the month, pay such fees to the
 18 state treasurer for deposit in the access to justice fund.

19 (7) Third party claim. A fee of ~~fourteen~~twenty-four dollars (\$~~14~~24.00)
 20 shall be paid by a party filing a third party claim as defined in the Idaho
 21 rules of civil procedure. Eight dollars (\$8.00) of such fee shall be paid to
 22 the county treasurer for deposit in the district court fund of the county;
 23 and six dollars (\$6.00) of such fee shall be paid to the county treasurer who
 24 shall, within five (5) days after the end of the month, pay such fees to the
 25 state treasurer for deposit in the senior magistrate judges fund; and ten
 26 dollars (\$10.00) of such fee shall be paid to the county treasurer who shall,
 27 within five (5) days after the end of the month, pay such fees to the state
 28 treasurer for deposit in the access to justice fund.

29 (8) Cross-claims. A fee of ~~fourteen~~twenty-four dollars (\$~~14~~24.00)
 30 shall be paid by any party filing a cross-claim. Eight dollars (\$8.00) of
 31 such fee shall be paid to the county treasurer for deposit in the district
 32 court fund of the county; and six dollars (\$6.00) of such fee shall be paid
 33 to the county treasurer who shall, within five (5) days after the end of the
 34 month, pay such fees to the state treasurer for deposit in the senior magis-
 35 trate judges fund; and ten dollars (\$10.00) of such fee shall be paid to the
 36 county treasurer who shall, within five (5) days after the end of the month,
 37 pay such fees to the state treasurer for deposit in the access to justice
 38 fund.

39 (9) Change of venue. A fee of nine dollars (\$9.00) shall be paid by a
 40 party initiating a change of venue. Such fee shall be paid to the clerk of the
 41 court of the county to which venue is changed. All of such fee shall be paid
 42 to the county treasurer for deposit in the district court fund of the county.

43 (10) Reopening a case. A fee of ~~fifteen~~twenty-five dollars (\$~~15~~25.00)
 44 shall be paid by any party appearing after judgment or applying to reopen a
 45 case. Nine dollars (\$9.00) of such fee shall be paid to the county treasurer
 46 for deposit in the district court fund of the county; and six dollars (\$6.00)
 47 of such fee shall be paid to the county treasurer who shall, within five (5)
 48 days after the end of the month, pay such fees to the state treasurer for de-
 49 posit in the senior magistrate judges fund; and ten dollars (\$10.00) of such
 50 fee shall be paid to the county treasurer who shall, within five (5) days af-

1 ter the end of the month, pay such fees to the state treasurer for deposit
 2 in the access to justice fund. A fee of ~~thirty~~forty-eight dollars (\$348.00)
 3 shall be paid by a party applying to reopen a divorce action or modify a di-
 4 vorice decree, with seventeen dollars (\$17.00) of the fee to be paid to the
 5 county treasurer for deposit in the district court fund of the county; fif-
 6 teen dollars (\$15.00) of such fee to be paid to the county treasurer who shall
 7 pay such fees to the state treasurer for deposit in accordance with subsec-
 8 tion (15) of this section; and six dollars (\$6.00) of such fee to be paid to
 9 the county treasurer who shall, within five (5) days after the end of the
 10 month, pay such fees to the state treasurer for deposit in the senior magis-
 11 trate judges fund; and ten dollars (\$10.00) of such fee shall be paid to the
 12 county treasurer who shall, within five (5) days after the end of the month,
 13 pay such fees to the state treasurer for deposit in the access to justice
 14 fund.

15 (11) Appeal to district court. A fee of ~~fifteen~~ twenty-five dollars
 16 (\$125.00) shall be paid by a party taking an appeal from the magistrate's
 17 division of the district court to the district court; and six dollars (\$6.00)
 18 of such fee shall be paid to the county treasurer who shall, within five (5)
 19 days after the end of the month, pay such fees to the state treasurer for
 20 deposit in the senior magistrate judges fund; and ten dollars (\$10.00) of
 21 such fee shall be paid to the county treasurer who shall, within five (5) days
 22 after the end of the month, pay such fees to the state treasurer for deposit
 23 in the access to justice fund. No additional fee shall be required if a new
 24 trial is granted. All of such fee shall be paid to the county treasurer for
 25 deposit in the district court fund of the county.

26 (12) Appeal to supreme court. A fee of ~~fifteen~~ twenty-five dollars
 27 (\$125.00) shall be paid by the party taking an appeal from the district court
 28 to the supreme court for comparing and certifying the transcript on appeal,
 29 if such certificate is required. Nine dollars (\$9.00) of such fee shall be
 30 paid to the county treasurer for deposit in the district court fund of the
 31 county; and six dollars (\$6.00) of such fee shall be paid to the county trea-
 32 surer who shall, within five (5) days after the end of the month, pay such
 33 fees to the state treasurer for deposit in the senior magistrate judges fund;
 34 and ten dollars (\$10.00) of such fee shall be paid to the county treasurer who
 35 shall, within five (5) days after the end of the month, pay such fees to the
 36 state treasurer for deposit in the access to justice fund.

37 (13) Fees not covered by this section shall be set by rule or administra-
 38 tive order of the supreme court.

39 (14) All fees required to be paid by this section or by rule or admin-
 40 istrative order of the supreme court shall be collected by the clerk of the
 41 district court or by a person appointed by the clerk of the district court
 42 for this purpose. If it appears that there is a necessity for such fees to
 43 be collected by persons other than the clerk of the district court or a per-
 44 son designated by the clerk for such purpose, the supreme court by rule or
 45 administrative order may provide for the designation of persons authorized
 46 to receive such fees. Persons so designated shall account for such fees in
 47 the same manner required of the clerk of the district court and shall pay such
 48 fees to the clerk of the district court of the county in which such fees are
 49 collected.

1 (15) That portion of the filing fees required to be remitted to the state
2 treasurer for deposit pursuant to subsections (1), (2), (3), (4), (6) and
3 (10) of this section shall be apportioned eighty-six percent (86%) to the
4 state general fund and fourteen percent (14%) to the peace officers stan-
5 dards and training fund authorized in section 19-5116, Idaho Code, within
6 five (5) days after the end of the month in which such fees were remitted to
7 the county treasurer. That portion of the filing fees required to be remit-
8 ted to a city treasurer for deposit in the city's general fund shall be re-
9 mitted within five (5) days after the end of the month in which such fees were
10 remitted to the county treasurer.

11 (16) Of the fees derived from the filing of any divorce action required
12 to be transmitted to the state treasurer, the county treasurer shall retain
13 five dollars (\$5.00), which shall be separately identified and deposited in
14 the district court fund of the county. Such moneys shall be used exclusively
15 for the purpose of establishing a uniform system of qualifying and approving
16 persons, agencies or organizations to conduct evaluations of persons con-
17 victed of domestic assault or battery as provided in section 18-918, Idaho
18 Code, and the administration of section 18-918(7), Idaho Code, relating to
19 the evaluation and counseling or other treatment of such persons, includ-
20 ing the payment of the costs of evaluating and counseling or other treatment
21 of an indigent defendant. No provision of chapter 52, title 39, Idaho Code,
22 shall apply to the moneys provided for in this subsection.

23 (17) In consideration of the aforesaid fees the clerk of the district
24 court shall be required to perform all lawful service that may be required of
25 him by any party thereto; provided, that he shall not prepare and furnish any
26 certified copy of any file or record in an action except printed transcript
27 on appeal, without additional compensation as provided by law.